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UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF NEW YORK

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In re	:	Chapter 11
	:	
DOWLING COLLEGE,	:	
f/d/b/a DOWLING INSTITUTE,	:	Case No. 16-75545 (REG)
f/d/b/a DOWLING COLLEGE ALUMNI	:	
ASSOCIATION,	:	
f/d/b/a CECOM,	:	
a/k/a DOWLING COLLEGE, INC.,	:	
	:	
	:	
Debtor.	:	

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**DEBTOR’S STATEMENT IN RESPONSE TO MOTION BY
PATRICIA KARPOWICZ TO AUTHORIZE THE DEBTOR TO
RETURN LION STATUE GIVEN IN MEMORY OF CHRISTOPHER
KARPOWICZ AND RETURN ANY BALANCE IN THE CHRISTOPHER
KARPOWICZ MEMORIAL SCHOLARSHIP FUND TO THE FAMILY**

**TO THE HONORABLE ROBERT E. GROSSMAN,
UNITED STATES BANKRUPTCY JUDGE:**

Dowling College (the “Debtor”), debtor and debtor-in-possession in the above-captioned chapter 11 case (the “Chapter 11 Case”), hereby submits this statement with respect to the motion filed by Patricia Karpowicz (the “Movant”) seeking the return of that certain lion statue (the “Lion Statue”) and any remaining balance in the Christopher Karpowicz Memorial

Scholarship Fund (the “Karpowicz Scholarship Fund”), and respectfully sets forth and represents as follows:

BACKGROUND

1. On November 29, 2016 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Eastern District of New York (the “Court”).

2. The Debtor continues to manage its property as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. On December 9, 2016, the United States Trustee appointed Ultimate Power Inc., Linda Ardito and Lori Zaikowski to the Official Committee of Unsecured Creditors (the “Creditors’ Committee”). Later that day, the Creditors’ Committee selected SilvermanAcampora LLP as its proposed general bankruptcy counsel.

4. Prior to the Petition Date, the Debtor retained Robert S. Rosenfeld of RSR Consulting, LLC to perform the functions and hold the title of Chief Restructuring Officer (the “CRO”). The CRO has taken over as the day-to-day manager of the Debtor and is responsible for managing the Debtor as debtor-in-possession in this Chapter 11 Case, assisting in the formulation, preparation and consummation of a plan of liquidation and performing such other duties customary to a chief restructuring officer.

5. The events leading up to the Petition Date and the facts and circumstances supporting the relief requested herein are set forth in the *Declaration of Robert S. Rosenfeld, Chief Restructuring Officer of the Debtor, Pursuant to Local Bankruptcy Rule 1007-4 in Support of First Day Motions* (the “First Day Declaration”) [DE 23].

6. On January 11, 2017, Movant filed a motion (the “Turnover Motion”) seeking the

return of (i) the Lion Statue allegedly given to Movant by Dowling's Lacrosse team in memory of Movant's son, Christopher, after his passing and (ii) any remaining balance in the Karpowicz Scholarship Fund [DE 152].

STATEMENT

7. The Lion Statue is currently located at the Debtor's Oakdale Campus. Following its review of the Turnover Motion, the Debtor reviewed available records and information concerning the allegations of interests asserted by Movant in the Lion Statue and the Karpowicz Scholarship Fund.

8. The Debtor believes the Turnover Motion to be accurate in identifying that the Lion Statue was dedicated to the memory of Movant's late son. Further, the Debtor has not identified any clear title or ownership interest of the Debtor or its estate in and to the Lion Statue, other than its presence on the Debtor's property. Importantly for purposes of this Chapter 11 Case, although the Debtor has not undertaken any formal or informal valuation process of the Lion Statue, the Debtor is not aware of any net monetary value associated with any potential alternative disposition of the Lion Statue if the Debtor were to oppose the Turnover Motion. As a result of this diligence, the Debtor is prepared to enter into a stipulation with the Movant which, among other things, would provide for the surrender and/or abandonment of the Lion Statue to the Movant with any costs of removal and insurance coverage to be at the Movant's sole cost and expense.

9. In relation to the Movant's request for turnover of any remaining funds, if any, in the Karpowicz Scholarship Fund, applicable non-bankruptcy law would not permit the Debtor to simply turnover or return to the Movant any funds in such a scholarship fund that may have been established in the name of Movant's son. Rather, as a not-for-profit educational corporation in

the State of New York, the Debtor (or possibly Movant or the New York State Attorney General) would need to seek relief in the form of a *cy pres* (or similar) proceeding under applicable non-bankruptcy law to seek a transfer of any such remaining funds for an alternative charitable purpose. Regardless of the forgoing legal requirements, the Debtor understands that the Karpowicz Scholarship Fund was unrestricted and previously used and all associated funds exhausted prior to the Petition Date for the purposes for which the scholarship was established. As a result, there are no funds remaining in the Karpowicz Scholarship Fund to transfer to any party or for any alternative charitable purpose.

Dated: New York, New York
January 30, 2017

**KLESTADT WINTERS JURELLER
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By: /s/ Sean C. Southard

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